

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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ROCKLAND VENDING CORP.,  
KEN GALLAGHER,

Plaintiffs,

07 CIV 6268 (KMK)

v.

ROXANNE CREEN, sued in her  
individual capacity, MARSHA F. RILEY,  
sued in her individual capacity,  
STEWART KIDDER, sued in his  
individual capacity,

Defendants.

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**AFFIRMATION OF MICHAEL H. SUSSMAN, ESQ.**

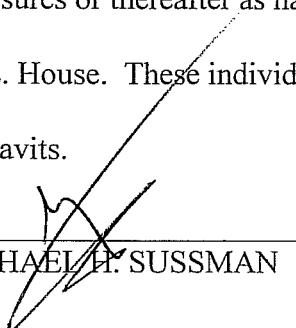
Michael H. Sussman, having been duly sworn, hereby states and affirms under pains  
and penalties of perjury:

1. I am lead counsel for plaintiffs in this matter and make this Affirmation in  
Opposition to defendants' motion for summary judgment.
2. The exhibits attached hereto are true and complete copies of the originals.
3. Exhibit 1 is a copy of a verified notice of claim filed by Michael Freed on  
February 19, 2008.
4. Exhibit 2 is a copy of the Invitation to Bids and Contract governing the Shawangunk  
Correctional Facility.
5. Exhibit 3 contains a series of e-mails dated May 8 and May 9, 2007.
6. Exhibit 4 is an e-mail dated 12/11/06 from Creen to Freed with a copy to Ferri.

7. Exhibit 5 is an e-mail dated 12/18/06 from Creen to Freed with a copy to Ferri.
8. Exhibit 6 is an e-mail dated 1/19/07 from Creen to Freed with a copy to Ferri.
9. Exhibit 7 is an email dated 1/30/07 from Creen to Freed with a copy to Ferri.
10. Exhibit 8 contains several e-mails between Ferri and Creen from 2/07.
11. Exhibit 9 is an e-mail dated 2/16/07 from Creen to Freed with a copy to Ferri.
12. Exhibit 10 contains two e-mails to and from Freed and Creen dates 2/26/07.
13. Exhibit 11 is an e-mail dated 3/2/07 from Creen to Freed with a copy to Ferri.
14. Exhibit 12 is a memo from Kidder to All Institutional Stewards dated 3/7/07.
15. Exhibit 13 is a memo dated 3/13/07 from Creen to Kidder in response to Exhibit 12.
16. Exhibit 14 is an e-mail dated 4/4/07 from Creen to Freed with a copy to Ferri.
17. Exhibit 15 contains e-mails dated 4/5/07 between Dayton and Ferri.
18. Exhibit 16 is a letter dated April 5, 2007 from Matthews to Freed copy to Kidder & Ferri.
19. Exhibit 17 contains e-mails dated 5/8/07 between Creen and Glassanos.
20. Exhibit 18 is a collection of e-mails dated 5/8/07 and 5/09/07 from Ferri, Creen and Glassanos.
21. Exhibit 19 is an e-mail dated 5/11/07 from Creen to Ferri
22. Exhibit 20 is a letter from Michael H. Sussman dated May 28, 2007 to AG Cuomo.
23. Exhibit 21 is a letter dated June 13, 2007 from Creen to Freed
24. Exhibit 22 is a memo from Creen to Glassanos with the original contract between Rockland Vending and Shawangunk.
25. Exhibit 23 is the Freed Affidavit dated July 2, 2007 with attachments 1-5.
26. Exhibit 24 is defendants' Rule 26 disclosures.

26. At his deposition, Glassanos stated he had received reports of delinquency from Ferri relating to plaintiff RV. I called for the production of these documents at his deposition and none have been produced. See, Plaintiffs' Response to Rule 56.1 Statement, para. 217 and n. 4.

27. Defendants have attached to their moving papers Affidavits of individuals who were not identified in either their Rule 26 disclosures or thereafter as having relevant information, specifically Edward L. Jones and Sandra L. House. These individuals should not now be permitted to offer testimony through Affidavits.

  
MICHAEL H. SUSSMAN

DATED: 15 MAY 2008